

Subcommittee on Water, Power and Oceans
John Fleming, Chairman
Hearing Memorandum

September 25, 2015

To: House Water, Power and Oceans Subcommittee Members
From: Water, Power and Oceans Subcommittee Republican Staff (x58331)
Hearing: Oversight Hearing on “*The Potential Implications of Pending Marine National Monument Designations.*”

Hearing Overview

On **Tuesday, September 29, 2015 at 10:00 a.m.**, in 1324 hearing room in the Longworth House Office Building, the Water, Power and Oceans Subcommittee will hold a one-panel oversight hearing on “*The Potential Implications of Pending Marine National Monument Designations.*”

Policy Overview

- The Antiquities Act of 1906 authorizes the President to reserve lands and waters of the United States as National Monuments.¹ While National Monuments have been designated under sixteen Democratic and Republican Administrations, President Obama has expanded or created **nineteen** national monuments totaling over 260 million acres.²
- These designations are more than any other previous President.³ While so far he has not designated any Marine National Monuments, he has expanded existing ones by more than 403,000 total square miles – an area larger than the states of Texas and New Mexico combined. While lauded by some groups, the expansions have been criticized for cutting off commercial fishing access and undermining domestic seafood supplies and associated jobs and harming the environment.⁴
- A number of petitions are pending with the Obama Administration to designate areas off of Alaska and Cape Cod in New England. This hearing will primarily focus on the impacts of existing national marine monuments and these proposals.

¹ http://www.fpir.noaa.gov/MNM/mnm_faq.html

² <https://www.whitehouse.gov/the-press-office/2015/07/10/fact-sheet-president-obama-designates-new-national-monuments>

³ <http://www.washingtonpost.com/news/energy-environment/wp/2015/07/10/in-massive-expansion-of-lands-legacy-obama-creates-three-new-national-monuments/>

⁴ http://www.washingtonpost.com/politics/obama-to-create-worlds-largest-protected-marine-reserve-in-pacific-ocean/2014/09/24/e2ecaab4-433e-11e4-b47c-f5889e061e5f_story.html

Invited Witnesses (listed in alphabetical order)

Mr. Rod Moore
Executive Director
West Coast Seafood Processors Association
Portland, Oregon

Mr. Chris Oliver
Executive Director
North Pacific Fishery Management Council
Anchorage, Alaska

Dr. Kathryn Sullivan
Under Secretary of Commerce for Oceans and Atmosphere
National Oceanic and Atmospheric Administration
Washington, D. C.

Mr. Jon Williams
The Atlantic Red Crab Company
New Bedford, Massachusetts

Dr. Andrew Rosenberg
Director
Center for Science and Democracy
Union for Concerned Scientists
Cambridge, Massachusetts

Background

President George W. Bush designated the nation's four Marine National Monuments, all of which are in the Pacific Ocean. The Marine National Monument Program prohibits federal leases for energy exploration⁵ and commercial fishing, while some allow the Secretary to "permit noncommercial fishing upon request."⁶

The Monuments – the Papahānaumokuākea, Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments -- totaled roughly 336,000 square miles. In 2014,

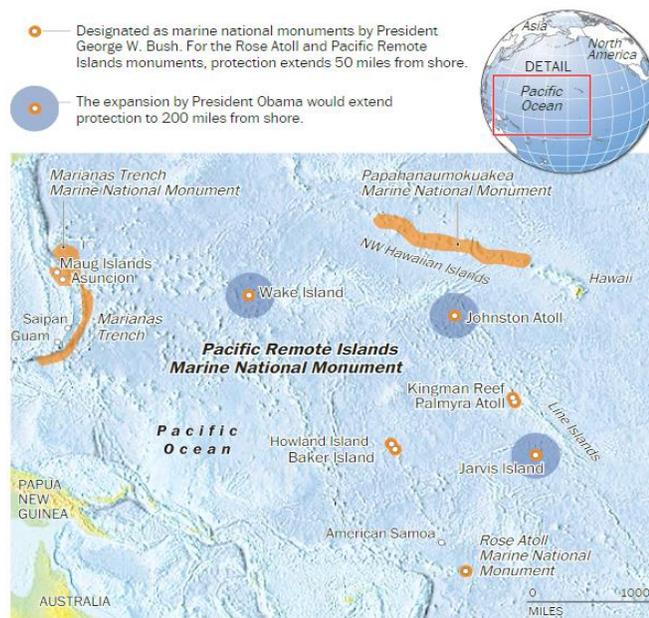


Figure 1: Expansion of Pacific Remote Islands Marine National Monument by President Obama. Source: <https://www.washingtonpost.com/apps/g/page/national/expansion-of-a-marine-monument/1101/>

⁵ [Congressional Research Service: National Monuments and the Antiquities Act, July 20, 2010](#)

⁶ [Presidential Proclamation 9173, September 25, 2014](#)

President Obama expanded the Pacific Remote Islands Marine National Monument from 86,888 to roughly 490,000 square miles – the largest expansion in U.S. history.⁷ This expansion created roughly 403,000 square miles of new protected area, 67,000 square miles more than the total area that President Bush set aside with four Marine National Monument designations. However, this isn't the only vast expansion President Obama has made in the Pacific. In 2012, the Administration expanded the Fagatele Bay National Marine Sanctuary from 0.25 to 13,581 square miles and renamed it the National Marine Sanctuary of American Samoa. While sanctuaries do not automatically prohibit commercial fishing as Marine Monuments have, the National Marine Sanctuary of American Samoa prohibits harvesting of multiple species and the use of various methods of fishing, some of which are traditional techniques used by the people of American Samoa.⁸

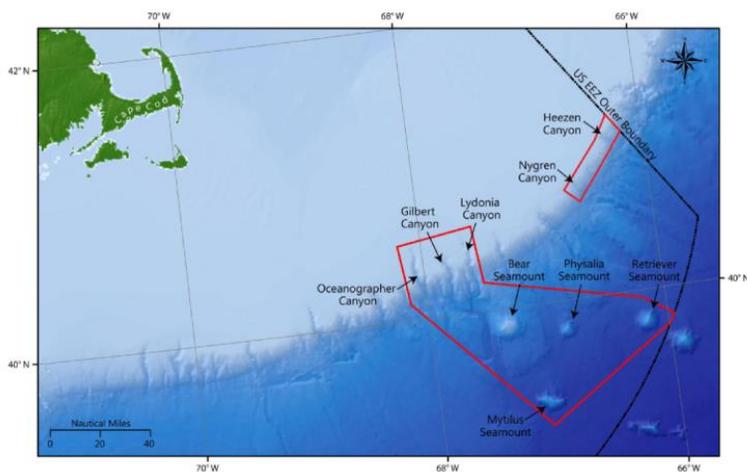


Figure 2: Potential Marine National Monument

Source: <http://www.onthewater.com/obama-administration-eyeing-marine-monument-in-new-england/>

Recent petitions by Pew⁹ and the Conservation Law Foundation (CFL),¹⁰ have called on President Obama to use his authority under the Antiquities Act to create the first Marine National Monument in the Atlantic, off of the coast of Cape Cod, Massachusetts. According to CFL, aside from prohibition of commercial fishing activities, permanent protection of Cashes Ledge and canyons and seamounts in this area are necessary to “safeguard these fragile seascapes from sand and gravel mining, oil digging, and other potentially

destructive activities.”¹¹ However, opponents of the potential designation state that these grounds are already protected through the regular process under the Magnuson-Stevens Act. According to a letter from multiple New England industry leaders to President Obama:

“State and federal fisheries managers have recognized the significance of this area and taken steps to ensure the long term protection of this unique habitat area. To unilaterally allow such a designation would usurp the established habitat and fisheries management public process and could be economically catastrophic not only to commercial and charter fishermen, but also to hundreds of small coastal communities in New England.”¹²

⁷ [Washington Post: Obama to Create World’s Largest Protected Marine Reserve in Pacific Ocean, September 25, 2014](#)

⁸ [National Oceanic and Atmospheric Administration, National Marine Sanctuary of American Samoa Regulations, 15 CFR 922 \(j\)](#)

⁹ [Pew Charitable Trusts, Take Action: Permanently Protect the ‘Grand Canyons,’ Sea Mountains, and Cashes Ledge off New England’s Coast \(petition\)](#)

¹⁰ [Conservation Law Foundation, Tell President Obama: Marine National Monument for All of New England’s Ocean Treasures \(petition\)](#)

¹¹ [Conservation Law Foundation, Hundreds show to comment on Marine National Monument proposal, September 16, 2015](#)

¹² [Ms. Beth Casoni, David Borden, Patrice McCarron, Sheila Dassatt, Charlie Wade, Gregory Mataronas, Rock Alley, Ralph Pratt letter to President Obama, September 15, 2015](#)

Further, New England Fishery Management Council (Council) Chairman, Mr. Terry Stockwell, stated that existing protections for the proposed areas have been reinforced by the Council when they voted in April 2015 to continue to restrict fishing in roughly 530 square miles on Cashes Ledge.¹³ The Council is the management body that regulates federally managed fisheries in New England under the authority of the Magnuson-Stevens Act.

On September 15, 2015, NOAA hosted a public Town Hall meeting in Providence, Rhode Island, to discuss the potential designation.¹⁴ While open to the general public, the town hall meeting was not publicly broadcasted nor was there a way to call in and listen. NOAA has yet to release any of the comments received. A witness will discuss this potential designation at the hearing.

A similar situation arose in August 2015 in Alaska just before President Obama was scheduled to make his first trip to the State during his Presidency. Another petition, this time led by the Public Employees for Environmental Responsibility (PEER),¹⁵ requested that President Obama use the Antiquities Act to designate multiple Marine National Monuments off of the coast of Alaska to include the Aleutian Islands, Bering Strait, and the U.S. Arctic Ocean.

In response to the President allowing Shell Corp. to conduct oil exploration activities in the Arctic, environmental groups stated that “Shell’s plan to drill in the Arctic Ocean underscores the critical need to permanently protect Alaska’s federal waters.”¹⁶ Further emphasizing the need for protection, petition author Richard Steiner stated: “The Alaska Outer Continental Shelf is one of the last remaining large offshore hydrocarbon prospects in the nation, and is the target of both current and future leasing plans.”¹⁷



Figure 3: Aleutian Islands National Marine Sanctuary proposed boundaries.

Source: Richard Steiner, Jeff Ruch letter to Daniel Basta, Director of NOAA Office of National Marine Sanctuaries, December 22, 2014

This petition is not the first time Mr. Steiner or PEER have taken an interest in these areas. In December 2014, PEER and Steiner formally submitted a proposal to NOAA under the National Marine Sanctuaries public nomination process.¹⁸ Their proposal called on NOAA to create an Aleutian Islands National Marine Sanctuary and proposed that NOAA permanently prohibit offshore oil, gas, and mineral leasing in the waters, and called for various fishery restrictions already imposed by the North Pacific Fishery Management Council to be

¹³ [The Gloucester Times: City joins fight against marine monument plan, September 18, 2015](#)

¹⁴ [National Oceanic and Atmospheric Administration: NOAA Town Hall in Providence, Rhode Island \(press release\), September 3, 2015](#)

¹⁵ [Public Employees for Environmental Responsibility, Tell President Obama to designate Marine National Monuments in Alaska \(petition\)](#)

¹⁶ [Id.](#)

¹⁷ [Mr. Richard Steiner, Mr. Jeff Ruch memo to Ocean conservation colleagues, August 11, 2014](#)

¹⁸ [Richard Steiner, Jeff Ruch letter to Daniel Basta, Director of NOAA Office of National Marine Sanctuaries, December 22, 2014](#)

permanent.¹⁹ However, NOAA denied this petition because the proposal did not meet the public nomination requirements. Specifically, NOAA determined that the proposal did not demonstrate the support for the sanctuary from a “breadth of community interests.”²⁰ NOAA also pointed out that the proposal lacked support from federal and state agencies who would ultimately co-manage the proposed sanctuary.²¹

Opponents of the proposed Marine National Monument in Alaska and the Arctic argue that the North Pacific Fishery Management Council continues to implement stringent conservation measures, making a designation unnecessary. According to fishery industry members, “the North Pacific Council has taken numerous actions in the North Pacific to mitigate fishing impacts on benthic habitat, including closing 277,000 square nautical miles to bottom trawling in the Aleutian Islands area... In addition, six Habitat Conservation Zones were established prohibiting fishing with all bottom areas.”²²

Industry leaders have further asserted that “[t]he establishment of a North Pacific marine monument could threaten America’s most sustainable managed fishery and the tens of thousands of...jobs related to the seafood industry.”²³ Two witnesses will testify about these efforts and the potential impacts of these petitions.

Congressman Don Young (R-AK) has introduced two bills this Congress to respond to such designations: H.R. 330 which would amend the Antiquities Act to require any Marine National Monument designation to be authorized by Congress and approved by the governor of each state or territory,²⁴ and H.R. 332 which would restrict the Secretary of Commerce from making a sanctuary designation in Alaskan waters unless approved by Congress.²⁵ Congresswoman Ileana Ros-Lehtinen (R-FL) introduced a bill, H.R. 3310, which would require that a National Marine Sanctuary or National Park in state waters cannot restrict fishing access unless the restrictions have been developed in coordination with, and approved by, the appropriate agency of the state or territory.²⁶

¹⁹ [Id.](#)

²⁰ [Daniel Basta letter to Richard Steiner, January 23, 2015.](#)

²¹ [Id.](#)

²² [Julie Bonney, Jim Gilmore, Mark Gleason, Brent Paine, Dennis Phelan, Chad See, Chris Woodley memo to congressional delegation, February 2015](#)

²³ [Id.](#)

²⁴ <https://www.congress.gov/bill/114th-congress/house-bill/330>

²⁵ <https://www.congress.gov/bill/114th-congress/house-bill/332>

²⁶ <https://www.congress.gov/bill/114th-congress/house-bill/3310>